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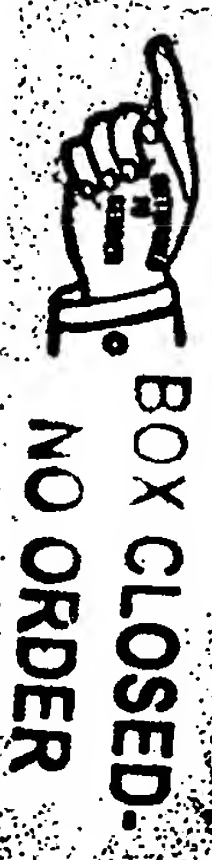
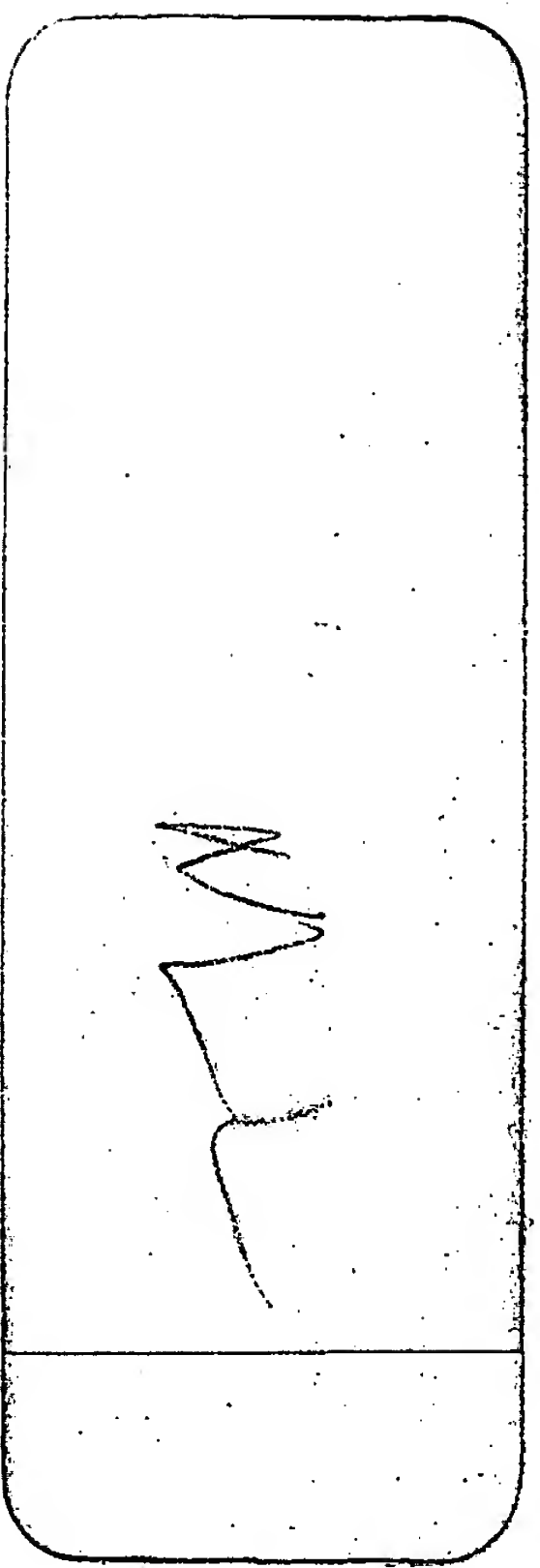
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COMMISSIONER FOR PATENTS

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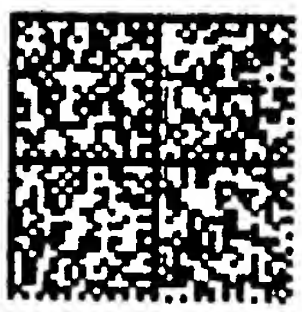
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,394	07/23/2003	Alexander Carbonell	LDP-7894	9096

7590
Alexander Carbonell
P.O. Box 450133
Miami, FL 33145

09/08/2006



EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3725

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/625,394	Applicant(s) CARBONELL, ALEXANDER	
	Examiner Faye Francis	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 6-8 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Mueller [US 2004/0159727].

Mueller discloses in Figs 1-3, a homogenizer comprising: a cylinder [vessel 5] for holding a product, the cylinder having a base [Fig 2], an axis, axle [shaft 6], a blade 7a and 7b connected to the axle more than a de minimis height, the blade inherently can be above the product when the cylinder is stationary and the blade contacting the product when the cylinder axially reciprocated [see sub sections 0020-0022], a removable cap 3

The method steps recited in claims 20-21 would be met during the normal operation of the apparatus disclosed by Severson. They are inherent method of use of the Mueller device.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3725

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller.

Mueller discloses the claimed invention except for a motor, a battery and a switch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Mueller with the missing elements, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which, has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller.

Mueller discloses most of the elements of this claim but for a blade disposed one half of the distance from the base. However, Mueller discloses that the device may be provided with additional blades if necessary [subsection 0020]. It would have been obvious to provide the device of Mueller with additional blades disposed along the shaft including one half of the distance from the base in order to increase efficiency of the device.

6. Claim 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Forsyth [5,938,129].

Mueller discloses most of the elements of these claims but for a removable mesh.

Forsyth cited to show desirability, in the relevant art, to provide a rotary mill with a mesh [screen assembly 22] in order to separate the milled product. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mueller with the mesh as taught by Forsyth in order to separate the milled product.

Additionally, the limitations of these claims would have been obvious modifications by one skilled in the art once the basic apparatus was known. For example the use of the mesh in a milling device is well known in the art and of no patentable merit. Furthermore, Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit [note the applicant discloses on page 13 line 9 that indicate the lack of criticality of these limitations in the present invention].

7. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of WO 9201515 A1, hereinafter WO'515.

Mueller discloses most of the elements of these claims as stated above but for a container connected to the base and the base having a tube for connecting the cylinder to the container.

WO'515 teaches that it is conventional in a portable crushing device to have a secondary container [disposable receptacle 23] to be attached to the main structure via a tube [chute 15] in order to dispose the material after being crushed. It would have

been obvious to one of ordinary skill in the art at the time the invention was made, in view of WO'515 to provide the device of Mueller with the missing elements in order to dispose or store the material after being crushed.

Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit.

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Dancyger [6,213,268].

Mueller discloses most of the elements of these claims as stated above but for a purse comprising a pocket and a strap.

Dancyger teaches the concept of providing a tool holder with a purse 10 comprising a pocket [flap 34] and a strap 64a to carry the tool from one place to another [see the abstract]. It would have been obvious to provide the device of Mueller with the purse comprising a pocket and a strap as taught by Dancyger in order to carry the device from one place to another.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FF



Faye Francis
Primary Examiner
Art Unit 3725

FORM PTO-1449 (SUBSTITUTE) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT (37 CFR 1.98(b))				Attorney Docket No.: LDP-7894 Appl. No.: 10/625394 Applicant: ALEXANDER CARBONELL Filing Date: July 23, 2003 Group Art Unit: 3725			
EXAMINER INITIALS		PATENT NO.	DATE	PATENTEE	CLASS	SUB CLASS	FILING DATE
FF	A	4,307,808	12/29/81	Johnson	_____	_____	
	B	4,480,926	11/6/84	Lattery, Jr. et al.	_____	_____	
	C	4,887,909	12/19/89	Bennett	_____	_____	
	D	5,425,579	6/20/95	Sampson	_____	_____	
	E	5,639,161	6/17/97	Sirianni	_____	_____	
	F	5,692,830	12/2/97	Costanzo	_____	_____	
↓	G	6,193,407 B1	2/27/01	Kubicz	_____	_____	
	H						
	I						
FOREIGN PATENT DOCUMENT							
		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB CLASS	TRANSL. YES NO
	J						
	K						
	L						
	M						
	N						
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)							
EXAMINER /Faye Francis/				DATE CONSIDERED 06/13/2006			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							

Notice of References Cited	Application/Control No. 10/625,394	Applicant(s)/Patent Under Reexamination CARBONELL, ALEXANDER	
	Examiner Faye Francis	Art Unit 3725	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2004/0159727 A1	08-2004	Mueller, Michel P.	241/169.1
*	B	US-6,213,268 B1	04-2001	Dancyger, Michael	190/110
*	C	US-5,938,129	08-1999	Forsyth, Rod	241/49
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	WO 9201515 A1	02-1992	WO		
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

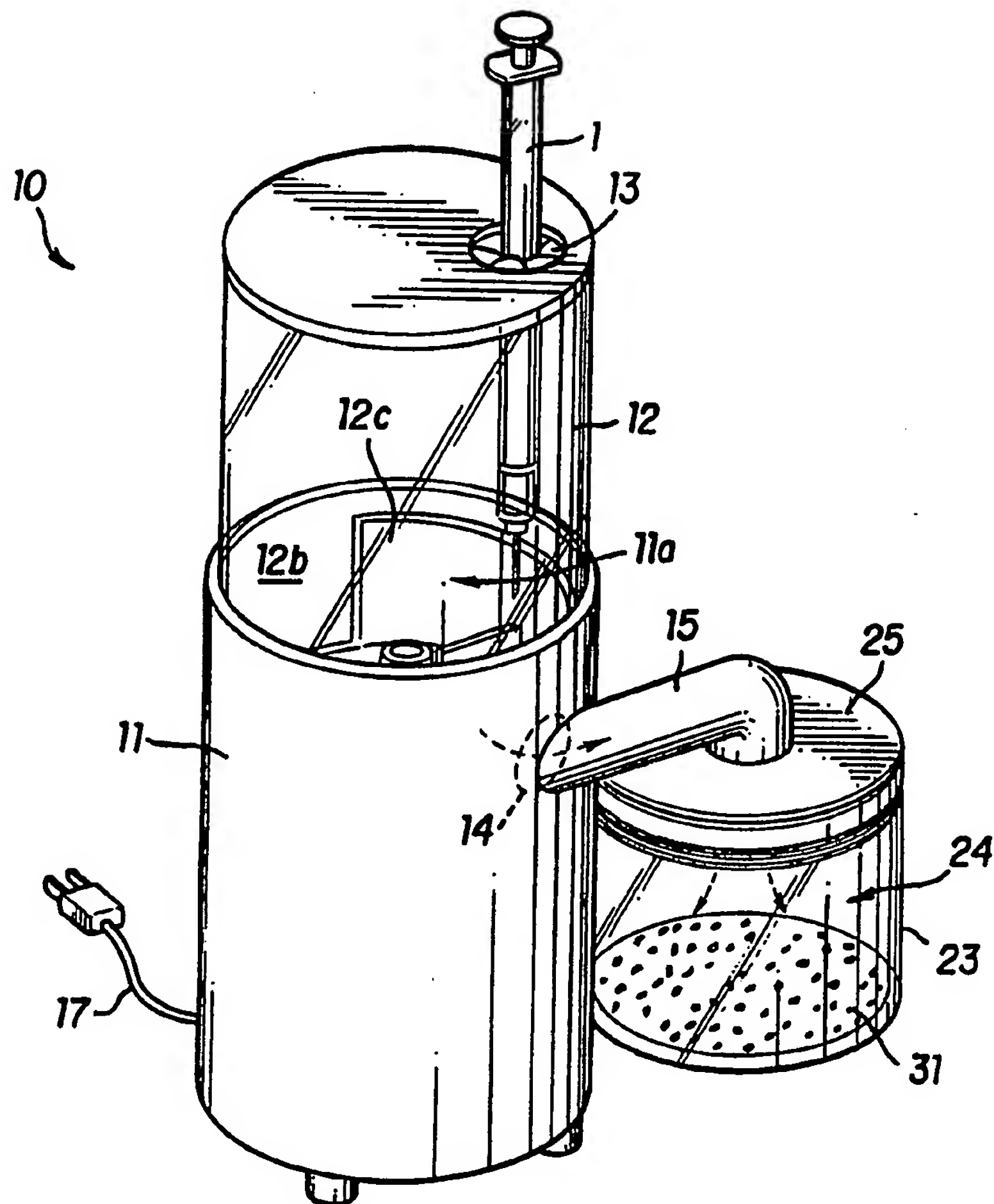


FIG. 1

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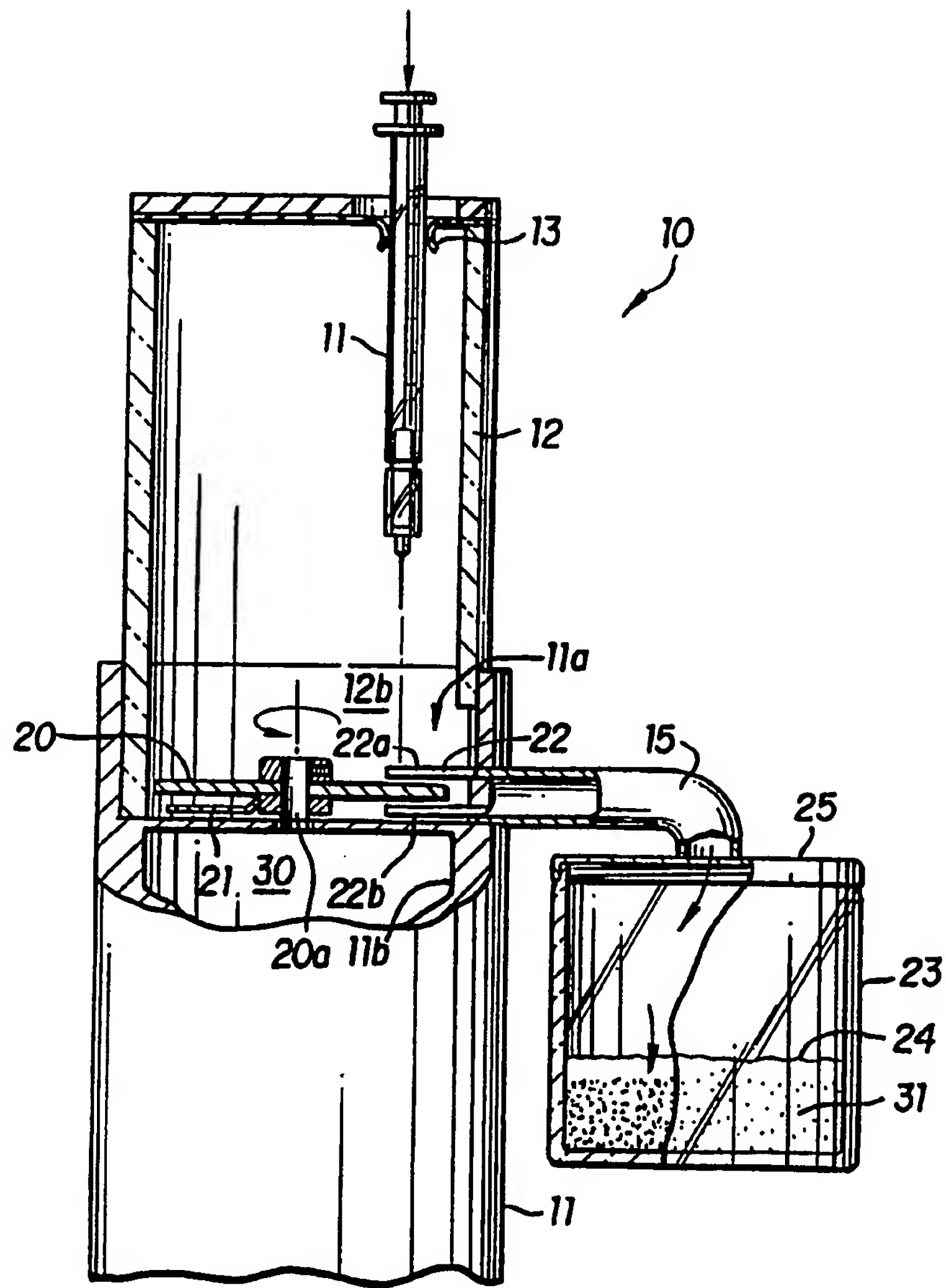


FIG. 2

SUBSTITUTE SHEET

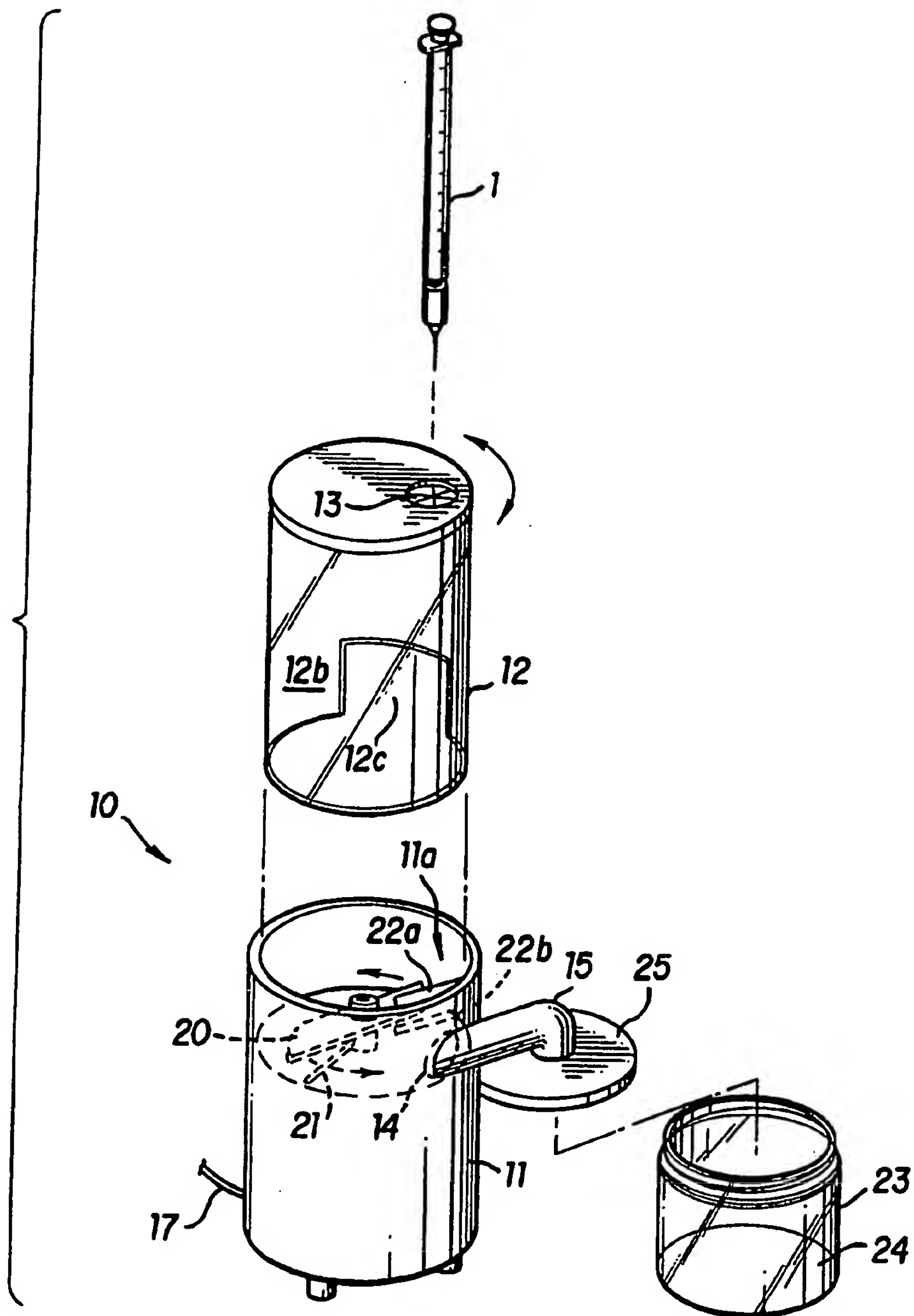
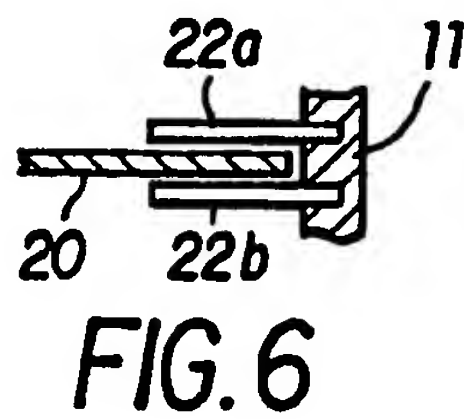
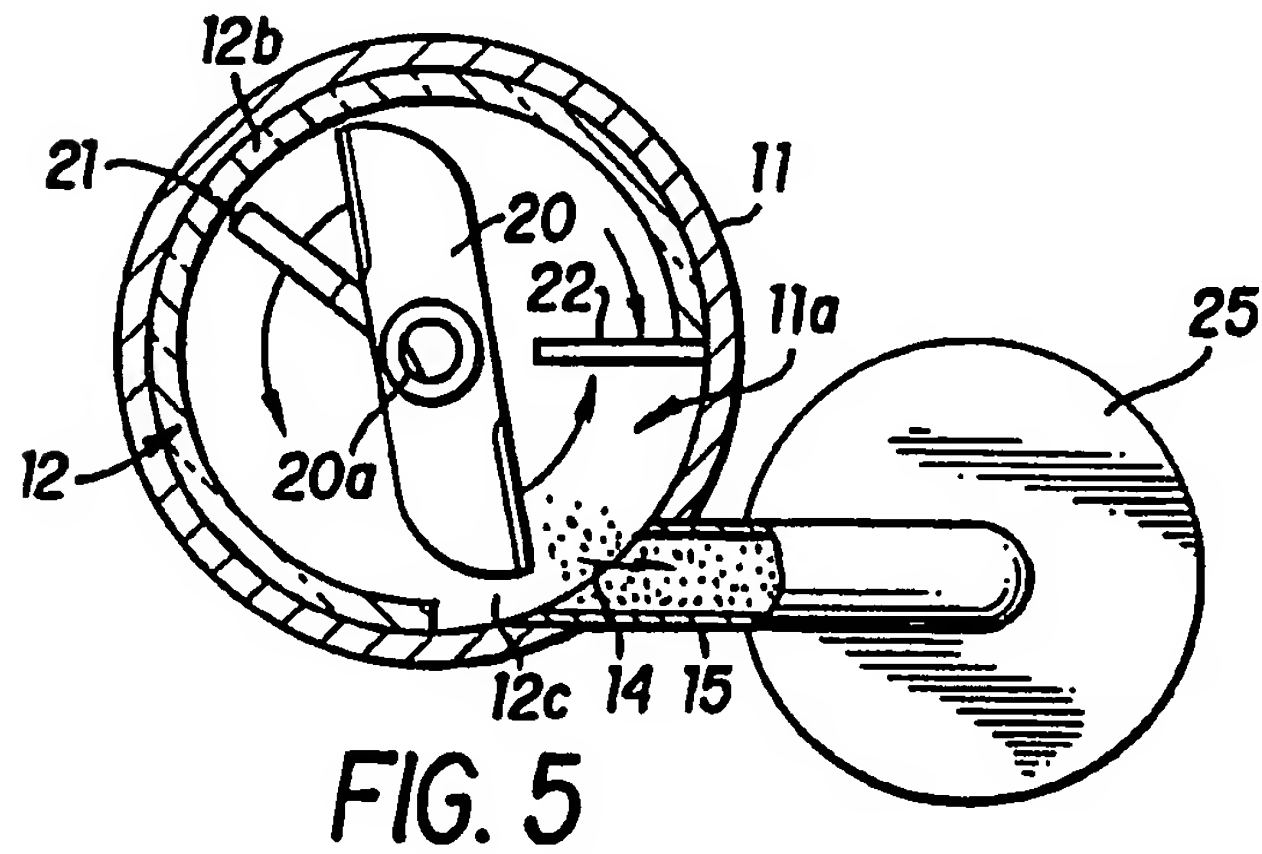
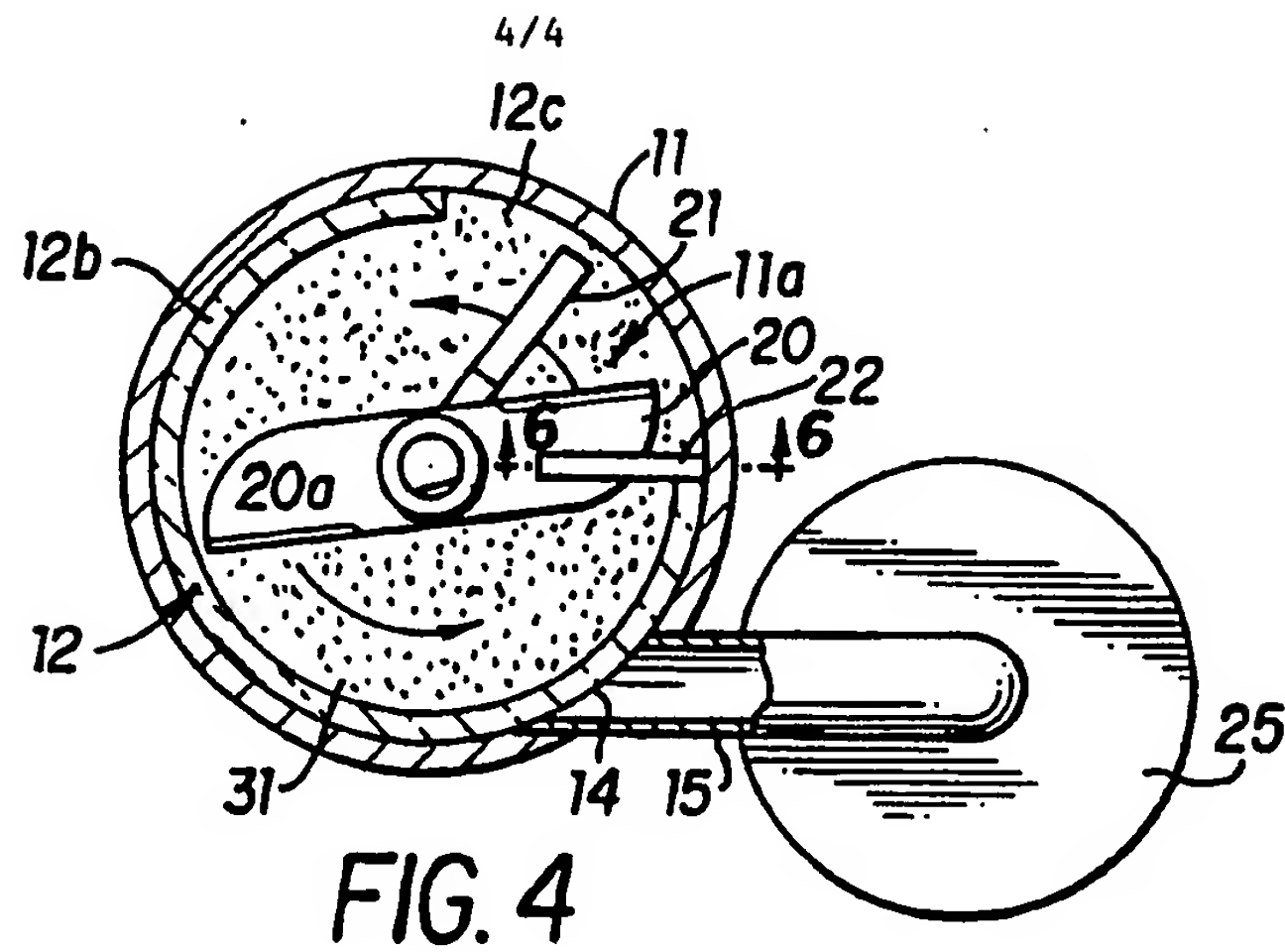


FIG. 3

SUBSTITUTE SHEET



SUBSTITUTE SHEET

INTERNATIONAL SEARCH REPORT

International Application No **PCT/US90/04016**

I. CLASSIFICATION OF SUBJECT MATTER (if several classification symbols apply, indicate all) ²

According to International Patent Classification (IPC) or to both National Classification and IPC

IPC(5): B02C 19/12

U.S. CL.: 241/99, 100, 190, 199.12

II. FIELDS SEARCHED

Minimum Documentation Searched ⁴

Classification System

Classification Symbols

U.S. 241/199.12, 101.2, 99, 282.1, 282.2, 119,
109, 100, 243, 190

Documentation Searched other than Minimum Documentation
to the Extent that such Documents are Included in the Fields Searched ⁵

III. DOCUMENTS CONSIDERED TO BE RELEVANT ¹⁴

Category ⁶	Citation of Document, ¹⁵ with indication, where appropriate, of the relevant passages ¹⁷	Relevant to Claim No. ¹⁶
X Y	US, A, 4,809,915 (KOFFSKY ET AL.) 07 March 1989, See the entire document.	1,3 2,4-9
Y	BE, A, 514,335, 15 October 1952, See BLADE 21 in Figure 1.	7-9
A	JP, A, 19,569, 14 February 1979, (H ¹ GASHIJIMA) See the entire document.	1-11
A	US, A, 3,958,765 (MUSSELMAN) 25 May 1976, See the entire document.	1-11
A	DE, C, 937,627, 12 January 1956, See the entire document.	1-11
A	FR, A, 1,146,306 (DELACROIX) 20 May 1957, See the entire document.	1-11

⁶ Special categories of cited documents: ¹⁸

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"Z" document member of the same patent family

IV. CERTIFICATION

Date of the Actual Completion of the International Search ²

29 AUGUST 1990

Date of Mailing of this International Search Report ³

06 FEB 1991

International Searching Authority ¹

ISA/US

Signature of Authorized Officer ¹⁰

for
MARK ROSENBAUM

Mark Rosenbaum
PCT/US90-80
INTERNATIONAL DIVISION

Form PCT/ISA/210 (second sheet) (May 1986)

PUB-NO: WO009201515A1
DOCUMENT-IDENTIFIER: WO 9201515 A1
TITLE: MEDICAL WASTE FRAGMENTATION AND DISPOSAL SYSTEM

PUBN-DATE: February 6, 1992

INVENTOR-INFORMATION:

NAME	COUNTRY
SOLOMONS, CHARLES	US

ASSIGNEE-INFORMATION:

NAME	COUNTRY
SAFEGUARD MEDICAL SUPPLY L P	US

APPL-NO: US09004016
APPL-DATE: July 17, 1990

PRIORITY-DATA: US09004016W (July 17, 1990)

INT-CL (IPC): B02C019/12

EUR-CL (EPC): B02C019/00

US-CL-CURRENT: 241/99 , 241/100 , 241/190 , 241/606

ABSTRACT:

CHG DATE=19990617 STATUS=O>A portable desk top "medical waste" fragmentation device and disposal system (10), complying with governmental requirements of maximum residual fragment size and sanitization. The fragmentation device (10) includes a chamber (11a) having a rotating blade (20) for fragmenting medical waste such as needles, syringes, vials and extracted teeth. For maximum effectiveness in reducing the medical waste into the requisite fragment size, the blade (20), with minimal clearance, passes between a U-shaped stationary member (22). During operation, the U-shaped member (22) serves to momentarily hold the items to be fragmented in a stationary position as the blade (20) fragments it in a shearing-

type action. To ensure complete minimum size fragmentation, an agitating member (21) continually throws the fragments into the path of the rotating blade (20). After the fragmentation is completed to the requisite size, the fragmentation chamber (11a) is opened into a disposal chute (15). The fragmented particles are drawn by centripetal force through the disposal chute (15) into a removable and disposable receptacle (23) having a sterilization or germicidal solution (24) contained therein. The disposable receptacle (23), with sanitized waste, can thereafter be safely and legally thrown away as ordinary trash.